

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
TIMOTHY PAUL DONALDSON V. CITY OF SAN DIEGO
San Diego Superior Court Case No. 591825

Plaintiff, Timothy Paul Donaldson, was severely injured in a bicycle versus automobile collision and filed suit against the City of San Diego in San Diego Superior Court. Plaintiff contended the street where the accident occurred, Neptune Place, in La Jolla, constituted a dangerous condition which caused his injuries. The case was tried by a jury with a verdict returned against the plaintiff and in favor of defendant, City of San Diego.

FACTS

On December 9, 1986, at approximately 9:30 a.m., plaintiff Timothy Donaldson, a 33-year-old airline steward, was severely injured when he was struck head-on by a Toyota Forerunner. Mr. Donaldson was riding his bicycle northbound on Neptune Place near Windansea Beach in La Jolla when a truck pulled in front of him northbound from Belvedere Street. Mr. Donaldson either tried to pass or tried to avoid a rear-end collision with the truck and was struck head-on by a Toyota Forerunner. This section of Neptune Place is 24 feet wide, and consists of one lane of traffic in each direction with parking on one side.

Mr. Donaldson was knocked unconscious, spent several weeks in a coma, lost the use of his left arm, and suffered brain damage. After several operations, surgeons were unable to repair the nerve damage to his left arm. He is still suffering from brain damage and has no recollection of the day of the accident or the seven weeks following.

Mr. Donaldson sued the City of San Diego alleging that the site of the accident, Neptune Place, was substandard in width and the City should not have allowed parking. Plaintiff claimed the

narrowing of the roadway, when combined with parking and two-way traffic, created a trap.

LITIGATION

In support of his allegations, plaintiff produced expert testimony that because this section of Neptune Place was substandard in width, the City should have removed the parking or made it a one-way street. Further expert testimony was offered that the condition was a trap which caused this accident.

The City agreed that the street was substandard in width

compared with new construction, but produced evidence showing no significant history of accidents since the street was built in 1925. The City also called traffic engineers and accident reconstructionists to rebut plaintiff's claims.

The trial was bifurcated with the issue of liability preceding damages. After a 6-day trial on the liability issue before the Honorable George P. Andreos, judge pro-tem, the jury returned a verdict in favor of the City. The jury deliberated 20 minutes before determining that the scene of the accident was not a dangerous condition of public property at the time of the accident.

Deputy City Attorney William S. Donnell tried the case on behalf of the City.

Respectfully submitted,
JOHN W. WITT
City Attorney

WSD:jt:Lit.(x043.1)
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